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RATIONALIZATION OF THE WORK OF THE COMMISSION

Letter dated 2 February 2000 from the Permanent Representative of Malaysia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to refer to the ongoing discussions in the working group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights.

In the plenary of the working group as well as in our private discussions, my delegation and I have reiterated the importance which Malaysia attaches to the immediate implementation of the two-term rule for special rapporteurs, which was referred to in the statement* of 29 April 1999 made by the Chairperson of the fifty-fifth session of the Commission on Human Rights. The statement had established guidelines on the work of the working group and had included in it certain recommendations for immediate implementation, one of which is the two-term (or six-year) limitation of the tenure of special rapporteurs. Specifically, paragraph 7 (ii) of the statement stated that,

> "To help maintain appropriate detachment and objectivity on the part of individual office-holders, and to ensure a regular infusion of new expertise and perspectives, any individual's tenure in a given mandate, whether thematic or country-specific, will be no more than six years. As a transitional measure, office-holders who have served more than three years when their current mandates expire will be limited to at most three years of further renewals in these posts. Reassignment of individuals to other mandates will be considered only in exceptional circumstances (recommendation 6 [of the Bureau's report])".

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* The statement in question appears in the report of the Commission on its fifty-fifth session (E/1999/23-E/CN.4/1999/167, para. 55).

In this connection, my delegation had, during the meeting of the working group on 19 January 2000, stated our understanding of that phrase, which is:

(a) The six-year time limit is a measure to be implemented immediately and without exception;

(b) The reference to the transitional period means that the tenure of special rapporteurs can only be extended for an additional one term only, totalling a maximum of six years (two terms). In other words, if a special rapporteur has served for six years (two terms) in the case of thematic special rapporteurs, then his/her tenure cannot be extended;

(c) In the interest of upholding of the credibility of the Commission's agreements, there should be, for the time being, no reassignment of individuals who have served for more than six years to other mandates.

While we take note of the comments which were made in the 19 January meeting, I believe that the working group should, for the sake of clarity, make such an understanding clear, by having such a reference in the report of the Chairperson of the working group to the Commission. I understand that the draft of that report will be discussed in the meeting of the working group from 7 - 11 February 2000.

An additional point which is of importance to Malaysia is the need to appoint special rapporteurs who are objective, impartial, and have the necessary qualities of professional expertise, experience and integrity. I believe that some of these elements were mentioned in the above draft report of the Chairperson of the working group.

In this connection, Malaysia believes that in order to ensure the impartiality of special rapporteurs, particularly with respect to the State of which he is a national, the concurrence of the State in question needs to be sought. Failure to do so would give that State the right not to cooperate with the Special Rapporteur concerned and reject his reports.

The Malaysian delegation is, as ever, available for discussions on the above-mentioned issues, both within the context of the working group as well as the Commission on Human Rights.

Finally, I would like to request that this be circulated as a document of the working group and as an official document of the fifty-sixth session of the Commission on Human Rights under the agenda item, "Rationalization of the work of the Commission".

(Signed) M. HAMIDON ALI
Ambassador
Permanent Representative